

FEB 2011
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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 In re REFCO INC. SECURITIES : 07 MDL 1902 (JSR)
 LITIGATION :
 -----x

This Document Relates to:

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 KENNETH M. KRYS, et al., :
 Plaintiffs, : 08 Civ. 7416 (JSR)
 :
 -v- :
 RICHARD AARON, et al., :
 :
 Defendants. :
 -----x

JED S. RAKOFF, U.S.D.J.

On July 19, 2010, Special Master Daniel J. Capra issued a Report and Recommendation in the above-captioned case recommending that the Court adopt the following conclusions:

Count I, Breach of Contract:

- Count I should be dismissed as to Aaron and Castranova, with prejudice.
- The claim that Mellon is liable for breaching the Service Agreement should be dismissed with prejudice.

Count II, Breach of the Covenant of Good Faith and Fair Dealing:

- Count II should be dismissed with prejudice.

Count III, Indemnity:

- Count III should be dismissed as to Mellon, with prejudice.

Count VI, Declaratory Relief:

- Count IV should be dismissed as to Castranova, with prejudice.

Count V, Breach of Fiduciary Duty:

- The DPM entities' motion to dismiss should be denied.

- PlusFunds' claim against Aaron should be dismissed, with prejudice.
- Aaron's motion to dismiss SMFF's claim should be denied.
- Count V should be dismissed as to Castranova, with prejudice.
- Count V should be dismissed as to Mellon, with prejudice.

Count VI, Aiding and Abetting Breach of Fiduciary Duty:

- The motions to dismiss should be denied with respect to all Defendants except Mellon.
- Count VI should be dismissed as to Mellon, with prejudice.

Count VII, Interference with Contract/Prospective Contract:

- Count VII should be dismissed with prejudice.

Count VIII, Fraud/Misrepresentation:

- The motions to dismiss should be denied with respect to all Defendants except Mellon.
- Count VII should be dismissed as to Mellon, with prejudice.

Count IX, Aiding and Abetting Interference with Contract/Prospective Contract:

- Count IX should be dismissed with prejudice.

Count X, NJRICO:

- Count X should be dismissed with prejudice.

See 07/19/10 R&R at 62-64.

After the various parties timely submitted objections to the Special Master's recommendations and responses to those objections, the Court heard oral argument on October 28, 2010. Having now reviewed the matter de novo, the Court finds itself fully persuaded by the Special Master's typically comprehensive and well-reasoned Report and Recommendation and hereby adopts it in full as if incorporated herein.

Finding nothing to add to the Special Master's excellent Report and Recommendation, the Court hereby affirms and adopts in all respects the conclusions set forth above.

SO ORDERED.



Dated: New York, New York
March 27, 2011